

§ 732.5

15 CFR Ch. VII (1–1–12 Edition)

§ 743.1 of the EAR to determine the applicability of certain reporting requirements.

(4) *Step 23: Scope of License Exceptions.* Some License Exceptions are limited by country or by type of item.

(i) Countries are arranged in country groups for ease of reference. For a listing of country groups, please refer to Supplement No. 1 to part 740 of the EAR. Unless otherwise indicated in a License Exception, License Exceptions do not apply to any exports or reexports to embargoed destinations. If your export or reexport is subject to General Prohibition Six (Embargo) for embargoed destinations, License Exceptions are only available to the extent specifically provided in part 746 of the EAR concerning embargoed destinations.

(ii) Special commodity controls apply to short supply items. No License Exceptions described in part 740 of the EAR may be used for items listed on the CCL as controlled for Short Supply reasons. License Exceptions for short supply items are found in part 754 of the EAR.

(5) *Step 24: Compliance with all terms and conditions.* If a License Exception is available, you may proceed with your export or reexport. However, you must meet all the terms and conditions required by the License Exception that you determined authorized your export or reexport. You must also consult part 758 and 762 of the EAR to determine your recordkeeping and documentation requirements.

(6) *Step 25: License requirements.* If no License Exception is available, then you must either obtain a license before proceeding with your export or reexport or you must refrain from the proposed export or reexport.

(7) *Step 26: License applications.* If you are going to file a license application with BIS, you should first review the requirements at part 748 of the EAR. Exporters, reexporters, and exporters from abroad should review the instructions concerning applications and required support documents prior to submitting an application for a license.

[61 FR 12740, Mar. 25, 1996, as amended at 61 FR 64274, Dec. 4, 1996; 63 FR 2456, Jan. 15, 1998; 71 FR 20883, Apr. 24, 2006; 76 FR 35286, June 16, 2011]

§ 732.5 Steps regarding Shipper's Export Declaration or Automated Export System record, Destination Control Statements, and record-keeping.

(a) *Step 27: Shipper's Export Declaration (SED) or Automated Export System (AES) record.* Exporters or agents authorized to complete the Shipper's Export Declaration (SED), or to file SED information electronically using the Automated Export System (AES), should review § 758.1 of the EAR to determine when an SED is required and what export control information should be entered on the SED or AES record. More detailed information about how to complete an SED or file the SED information electronically using AES may be found in the Bureau of Census Foreign Trade Statistics Regulations (FTSR) at 15 CFR part 30. Reexporters and firms exporting from abroad may skip Steps 27 through 29 and proceed directly to § 732.6.

(1) *Entering license authority.* You must enter the correct license authority for your export on the SED or AES record (License number, License Exception symbol, or No License Required designator "NLR") as appropriate. See § 758.1(g) of the EAR and 15 CFR 30.7(m) of the FTSR.

(i) *License number and expiration date.* If you are exporting under the authority of a license, you must enter the license number on the SED or AES record. The expiration date must be entered on paper versions of the SED only.

(ii) *License Exception.* If you are exporting under the authority of a License Exception, you must enter the correct License Exception symbol (*e.g.*, LVS, GBS, CIV) on the SED or AES record. See § 740.1 and § 740.2 of the EAR.

(iii) *NLR.* If you are exporting items for which no license is required, you must enter the designator NLR. You should use the NLR designator in two circumstances: first, when the items to be exported are subject to the EAR but not listed on the Commerce Control List (CCL) (*i.e.*, items that are classified as EAR99), and second, when the items to be exported are listed on the CCL but do not require a license. Use of

the NLR designator is also a representation that no license is required under any of the General Prohibitions set forth in part 736 of the EAR.

(2) *Item description.* You must enter an item description identical to the item description on the license when a license is required, or enter an item description sufficient in detail to permit review by the U.S. Government and verification of the Schedule B Number (or Harmonized Tariff Schedule number) for License Exception shipments or shipments for which No License is Required (NLR). See § 758.1(g) of the EAR; and 15 CFR 30.7(l) of the FTSR.

(3) *Entering the ECCN.* You must enter the correct Export Control Classification Number (ECCN) on the SED or AES record for all licensed and License Exception shipments, and “No License Required” (NLR) shipments of items having a reason for control other than anti-terrorism (AT). The only exception to this requirement would be the return of unwanted foreign origin items, meeting the provisions of License Exception TMP, under § 740.9(b)(3). See § 758.1(g) of the EAR.

(b) *Step 28: Destination Control Statement.* The Destination Control Statement (DCS) must be entered on the invoice and on the bill of lading, air waybill, or other export control document that accompanies the shipment from its point of origin in the United States to the ultimate consignee or end-user abroad. The person responsible for preparation of those documents is responsible for entry of the DCS. The DCS is required for all exports from the United States of items on the Commerce Control List and is not required for items classified as EAR99, unless the export may be made under License Exception BAG or GFT (see part 740 of the EAR). Reexporters should review § 752.15 of the EAR for DCS requirements when using a Special Comprehensive License; otherwise, DCS requirements do not apply to reexports. See § 758.6 of the EAR.

(c) *Step 29: Recordkeeping.* Records of transactions subject to the EAR must be maintained for five years in accordance with the recordkeeping provisions of part 762 of the EAR.

[65 FR 42568, July 10, 2000]

§ 732.6 Steps for other requirements.

Sections 732.1 through 732.4 of this part are useful in determining the license requirements that apply to you. Other portions of the EAR impose other obligations and requirements. Some of them are:

(a) Requirements relating to the use of a license in § 758.4 of the EAR.

(b) Obligations of carriers, forwarders, exporters and others to take specific steps and prepare and deliver certain documents to assure that items subject to the EAR are delivered to the destination to which they are licensed or authorized by a License Exception or some other provision of the regulations in § 758.1 through § 758.6 of the EAR.

(c) Duty of carriers to return or unload shipments at the direction of U.S. Government officials (see § 758.8 of the EAR).

(d) Specific obligations imposed on parties to Special Comprehensive licenses in part 752 of the EAR.

(e) Recordkeeping requirements imposed in part 762 of the EAR.

(f) Requirements of part 764 of the EAR to disclose facts that may come to your attention after you file a license application or make other statements to the government concerning a transaction or proposed transaction that is subject to the EAR.

(g) Certain obligations imposed by part 760 of the EAR on parties who receive requests to take actions related to foreign boycotts and prohibits certain actions relating to those boycotts.

[61 FR 12740, Mar. 25, 1996, as amended at 65 FR 42568, July 10, 2000]